HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1128 (S/B) of 2002

Kishan Singh Negi and
Another. ...Petitioners

Vs

State of Uttaranchal and
Others. ...Respondents

Counsel for the petitioner Shri V.K. Bist,
Standing Counsel for the Respondents,

Dated: - 13-7-2004

Hon'ble Rajesh Tandon J.

Heard Shri V.K. Bist Learned counsel for the petitioners and Standing counsel for the respondents.

By the present writ petition the petitioners have prayed for the issue of a writ, order or direction in the nature of mandamus commanding the respondents to revise the pay scale of the petitioners and grant them same pay scale which is being given to their counter parts i.e. Deputy Basic Shiksha Adhikari of the State w.e.f. 01-01-96.

Brief facts giving rise to the present writ petition are that the Petitioner No. 1 was appointed on the post of Education Superintendent Grade –I in the pay scale of Rs. 200-450/- in Nagar Palika, Nainital. The petitioner No. 1 was confirmed in the pay scale of Rs. 320-620/- w.e.f. 18-11-1973 vide order dated 3-3-1989 of Director of Education (Basic)/ Adhyaksh, Uttar Pradesh Basic Shiksha, Parishad, Allahabad. After having completed ten years of service the petitioner No. 1 was granted selection grade with an increment from 1-1-7986 and again after completion of 16 years, then he was promoted in the grade of Rs.5000-8000.

On 26-6-1986 the petitioner No. 2 was appointed as Education Superintendent Grade III in the pay scale of Rs. 470 to 375/-. On 4-9-4989 he was promoted on the post of Education Superintendent Grade II in the pay scale of Rs. 515-860/-. The pay scale was subsequently revised as Rs/ 1400-2300/-, since the petitioner No. 2 was postgraduate and was eligible for his promotion on Grade I. He was promoted as Education Superintendent Grade-I vide order dated 16-8-1995 of Director of Education (Basic)/ Adhyaksh Basic Shiksha Parishad, Allahabad in the pay scale of Rs. 1400-2400/-(Presently Rs. 4500-7200/-) and this promotion was given to the petitioner No. 2 on the ground of post graduate qualification.

The state government has changed the nomenclature of the post of Education Superintendent as Nagar Shiksha Adhikari on 24-3-1998. In view of this order the designation of the petitioners was changed as Nagar Shiksha Adhikari Grade-I. At present the petitioner No.1 is working as Nagar Shiksha Adhikari Grade-I Haldwani and the petitioner no.2 is working as Nagar Shiksha Adharikari-I, Dehradun.

The pay scale of Education Superintendent Grade-I (Nagar Shiksha Adhikari-I) was revised from time to time in the following manner.

From	01-08-1972	Rs.320-620
From	01-07- 1979	Rs.550-940
From	01-01-1986	Rs.1400-2400
From	01-01-1996	Rs.4500-7250

The petitioner No. 1 was an employee of Nagar Palika and was working under Nagar Palika Centralized Service Rule prior to 01-08-1972. But after creation of Basic Shiksha Parishad the service of all Education Superintendents and Assistant Education Superintendents working in cities were brought under Basis Shiksha Parishad under U.P. Basic Education Act, 1972 and Promotion Avenue was also available under Nagar Palika service. The petitioner No. 1 would also have promoted up to the post of Executive

Officer/Up Mukhya Adhikari. The petitioner no.1 was promoted as Education Superintendent Grade-I in the year 1991 and he has completed 31 years of service but he could not get even single promotion in this tenure.

The petitioners alone was employees of Basic Shiksha Parishad were not considered for higher posts and infact government officers are appointed/ promoted on such post. The qualifications for the post of Nagar Shiksha Adhikari-I (On which the petitioners are working) is post graduate whereas qualification for the post of Deputy Basic Shiksha Adhikari is graduate but the pay scale of the Nagar Shiksha Adhikari-I is Rs. 4500-7250/- whereas pay scale of Deputy Basic Shiksha Adikhari is Rs. 6500-10,500/-.

The petitioner has preferred several representations before the respondents by the Association of the Nagar Shiksha Adhikari for granting them higher pay scale. Then, the Association filed a writ petition, the writ petition no. 7797 of 1988, U.P. Municipal Education Inspecting Officers Association and another Vs. State of U.P. and others before the Lucknow Bench of Allahabad High Court. On 9-3-1994, the Hon'ble Court has directed the respondents to pay same salary to the petitioners (of the writ petition). Following order was passed by the High Court:-

"Opposite parties are directed to pay same salary to petitioners which is being paid to the Deputy Inspector of Schools or show cause on the date of Listing."

Unfortunately, neither any counter affidavit was filed nor salary of Deputy Inspector of Schools was given to the petitioners.

On 22-12-2001 Nagar Shiksha Adhikari Sangh, Uttaranchal also submitted his representation before Director of Education (Uttaranchal) or amalgamating the posts of Nagar Shiksha Adhikari and Assistant Nagar Shiksha Adhikari into the post of Deputy Basic Shiksha Adhikari and

Assistant Basic Shiksha Adhikari respectively. The representation dt. 22-12-2001 of the petitioner is as under:-

''उक्त स्थिति में सम्प्रति तीन श्रेणी वेतनक्रमों में नगर संवर्ग कें अधिकारियों को निम्नवत श्रेणियों में समायोजित कर उन्हें उप बेसिक धिक्षा अधिकारी एवं प्रति उप विघालय निरीक्षक/ सहायक बेसिक धिक्षा अधिकारी की भॉति पंचम वेतनमान दिया जाये।''

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सहायक नगर प्रिक्षा अधिकारी	3050–4590	प्रशिक्षित स्नातक	10	साधारणवेतनमान 6500–200–10500 चयन वेतनमान 7500–250–12000 प्रोन्नति वर्तमान 8000–275–13500	प्राथमिक विघालय मे स0अ0 की प्रोन्नति से।
न्गर धिक्षा अधिकारी र्द्वितीय/तृतीय श्रेणी)	4500–7000	प्रशिक्षित स्नातक	01	साधारणवेतनमान 7500–250–12000 चयन वेतनमान 8000–275–13500	सहायक नगर धिक्षा अधिकारी की प्रोन्नति एवं सीधी भर्ती से।
नगर धिक्षा अधिकारी र्प्रिथम श्रेणीक्र	4500–7250	प्रशिक्षित स्नातकोत्तर	11	साधारणवेतनमान 8000–275–13500 चयन वेतनमान 10000–325–15200	नगर धिक्षा अधिकारी द्वितीय से जो स्नातकोत्तर हो।

On 21-2-2002, the additional Director of Education, Uttaranchal wrote to the State Government for granting the pay scale of Deputy Basis Shiksha Adhikari to the Nagar Shiksha Adhikari-I and pay scale of Assistant Basic Shiksha Adhikari to Assistant Nagar Adhikari.

Allahabad High Court has issued a mandamus to the State of U.P. for granting higher pay scale of Rs. 7500-12000/- to Sub-Deputy Inspector/Assistant Basic Shidsha Adhikari and pay scale of Rs. 8000/- to 13570/- to Deputy Basic Adhikari on the ground that nature of their work is supervising the work of Head Masters of Junior High School.

On 29-8-2002 following order was passed by Division Bench of this court:-

" Notices have been accepted by learned Chief Standing Counsel for State of Uttaranchal as well as by learned Standing Counsel for the State of U.P. who pray for and are allowed six weeks time to file counter affidavit.

List after six weeks."

In order to justify the aforesaid administrative functions the petitioner has referred the G.O. dt. 10th May 1986 to the following effect:-

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The petitioners have also referred regarding the report of the Bajaj Committee for reconsidering the pay scale as well as the Sub Committee, which was constituted by the State Govt. 17-11-97 for considering the revision of the pay scale of teachers. The petitioners have stated that they have also made their representation for the revision of the pay scale but of no avail and anomaly has been created by the Govt. by creating a disparity in the pay scale of headmasters and Sub Deputy Inspector of Schools.

In reply to the show cause notice, the respondents have brought to the notice that the Sub Inspector of Junior High School are not covered under the recommendation of the 5th Pay Commission.

In the light of the aforesaid facts and circumstances, the respondents are directed to consider the representation of the petitioners on the basis of

G.O. dt. 22-12-2001, 17-10-2000 and 21-02-2002 within a period of 6 weeks after production of the certified copy of the order.

The writ petition is allowed. There will be no order as to costs.

(RAJESH TANDON J.)

Dated: 13-7-2004

M.K.